ARC 9960B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

These amendments:

• Reduce or eliminate Medicaid reimbursement for nonemergency services rendered in a hospital emergency room. The amount of reduction will depend on whether a member was referred to the emergency room by medical personnel.

• Implement a $3 copayment from the Medicaid member for treatment of a nonemergency medical condition in a hospital emergency room (the same charge as for a physician visit). Copayment will not be charged if the member is admitted to the hospital for inpatient care.

These amendments are intended to reduce inappropriate use of hospital emergency rooms for treatment of nonemergency medical conditions. Legislation passed by the Eighty-Fourth General Assembly allows the Department to implement the Medicaid cost containment strategies recommended by Governor Branstad. These changes are part of those recommended strategies.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on September 7, 2011, as **ARC 9723B**. The amendments were also Adopted and Filed Emergency and were published as **ARC 9722B** on the same date.

The Department received one comment on the Notice of Intended Action from the Iowa Medical Society. The Society contends that:

• The amendment should not have been Adopted and Filed Emergency;

• The new policies could substantially reduce Medicaid payment to emergency room providers;

• There are no documented studies showing that such policies are effective in assuring more appropriate use of emergency room services;

• The sanction is a substantial payment reduction for what may often be a reasonable judgment call on the part of the referring and treating providers; and

• The amendment weakens Iowa's compliance with federal obligations, especially the duty to maintain access to services.

The Department holds that its action was a necessary response to legislative directive. Reimbursement to physicians who provide emergency room services is not affected. The Department understands that Medicaid members sometimes have little choice but to use the nearest emergency room. But if screening shows that there is not an emergency, the Department believes that other options are usually available and that the hospital can make appropriate referrals, rather than providing nonemergency services in the emergency room. The Department does not believe that data analysis is needed because this change will reduce payments only to the extent there is inappropriate emergency room use.

A complete summary of the comments and responses is available on the Department's policy Web site at: http://www.dhs.iowa.gov/policyanalysis/RulesPages/phcomm.htm.

These amendments are identical to those Adopted and Filed Emergency and published under Notice of Intended Action.

The Council on Human Services adopted these amendments on December 14, 2011.

These amendments do not provide for waivers in specified situations because the savings assumed in the Department's appropriations will not be achieved if waivers are provided. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4 and 2011 Iowa Acts, House File 649, section 10, subsection 20(a).

These amendments shall become effective February 15, 2012, at which time the Adopted and Filed Emergency amendments are rescinded.

The following amendments are adopted.

ITEM 1. Amend paragraph **79.1(13)"g"** as follows:

g. Copayment charges are not applicable for a member receiving inpatient care in a hospital, nursing facility, state mental health institution, or other medical institution if the person is required, as a condition of receiving services in the institution, to spend for costs of necessary medical care all but a minimal amount of income for personal needs.

ITEM 2. Adopt the following **new** paragraph **79.1(13)"n"**:

n. The member shall pay a $3 copayment for each visit to a hospital emergency room for treatment that does not meet the criteria for an emergency service as defined in paragraph 79.1(13)*"k."* This $3 copayment shall not apply if the visit to the emergency room results in a hospital admission.

ITEM 3. Amend subparagraph **79.1(16)"c"(4)**, table of payment status indicators, row "V," as follows:

Indicator	Item, Code, or Service	OPPS Payment Status
V	Clinic or emergency department visit	If covered by Iowa Medicaid, the service is paid under OPPS APC with separate APC payment~~.~~, subject to limits on nonemergency services provided in an emergency room pursuant to 79.1(16)*"r."* If not covered by Iowa Medicaid, the service is not paid under OPPS APC or any other Medicaid payment system.

ITEM 4. Adopt the following **new** paragraph **79.1(16)"r"**:

r. Services delivered in the emergency room. Payment to a hospital for assessment of any Medicaid member in an emergency room shall be made pursuant to fee schedule. Payment treatment of a Medicaid member in an emergency room shall be made as follows:

(1) If the emergency room visit results in an inpatient hospital admission, the treatment provided in the emergency room is paid for as part of the payment for the inpatient services provided.

(2) If the emergency room visit does not result in an inpatient hospital admission but involves emergency services as defined in paragraph 79.1(13)*"k,"* payment for treatment provided in the emergency room shall be made at the full APC payment for the treatment provided.

(3) If the emergency room visit does not result in an inpatient hospital admission and does not involve emergency services as defined in paragraph 79.1(13)*"k,"* payment for treatment provided in the emergency room depends on whether the member had a referral to the emergency room and on whether the member is participating in the MediPASS program.

1. For members not participating in the MediPASS program who were referred to the emergency room by appropriate medical personnel and for members participating in the MediPASS program who were referred to the emergency room by their MediPASS primary care physician, payment for treatment provided in the emergency room shall be made at 75 percent of the APC payment for the treatment provided.

2. For members not participating in the MediPASS program who were not referred to the emergency room by appropriate medical personnel, payment for treatment provided in the emergency room shall be made at 50 percent of the APC payment for the treatment provided.

3. For members participating in the MediPASS program who were not referred to the emergency room by their MediPASS primary care physician, no payment will be made for treatment provided in the emergency room.

[Filed 12/15/11, effective 2/15/12]
[Published 1/11/12]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/11/12.